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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/638,096	08/07/2003	Levik Kodaverdian	Bona US 4 CVL	3381

7590

01/04/2005

KLAAS, LAW, O'MEARA & MALKIN, P.C.
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EXAMINER

SHAKERI, HADI

ART UNIT PAPER NUMBER

3723

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/638,096	Applicant(s) cd KODAVERDIAN ET AL.	
	Examiner Hadi Shakeri	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-24 and 26-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-24 and 26-34 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: the amendment to the specification, i.e., at page 4 describing in detail the embodiment of the lower body, even though entered, since the provisional application provides sufficient support, lacks the statement of "no new matter" per 37 CFR 1.125 (b).

Appropriate correction is required.

Claim Rejections - 35 USC § 102

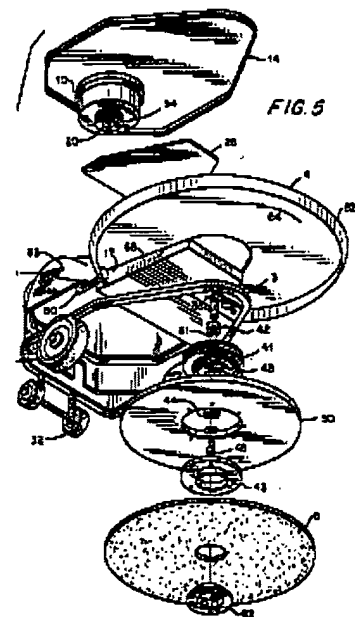
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4-9, 11, 13, 15-17, 20-24, 26, 28, 30, 31, 33 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Gurstein et al.

Gurstein et al. discloses all of the limitations of claims 1 and 17, i.e., a floor edger comprising a first housing (shroud 4) including an opening and a rotatable abrasive disc (6) located in said opening, said rotatable abrasive disc having a diameter greater than six inches, and a motor (8) operatively connected to said first housing and drivingly connected to said abrasive disc; a motor controller (25) as discloses in col. 6, lines 33-47 considered to meet all the limitations of claim 17, wherein a fan (18) drivingly connected to the motor and located in an alternative embodiment on the shaft (20) between motor (8) and the pulley (54) (05:65-67).



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Regarding claims 4-8 and 20-23, Gurstein et al. meets the limitations, e.g., col. 3, line 46 (US 5,004,944); 2.5 hp.

Regarding claims 9, 11, 13, 15-16 and 24-26, 28, 30 and 31, Gurstein et al. meets the limitations, e.g., second housing frame (3).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-8, 18-23, and 32 are rejected under 35 U.S.C. 103(a) (in the alternative) as being unpatentable over Gurstein et al. in view of McCutchen (6,540,598).

Gurstein et al. as indicated above meets all the limitations of the above claims, except for the specific size of the disc, weight of the edger, rpm and hp of the motor. The edger as disclosed is dimensioned and proportionally sized for a disc having 20" diameter, therefore modifying or proportionally downsizing the edger of Gurstein et al., for a disc of about 7", a common commercially available size as evident by McCutchen (col. 3, line 46), depending on the workpiece and or operational parameters, e.g., grinding small or hard to reach areas, a modification well within the knowledge of one of ordinary skill in the art, would reduce the weight if not three times smaller, sufficiently lighter to meet the limitations as recited.

Regarding claims 2, 3, 18 and 19, Gurstein et al. in view of McCutchen, i.e., for use with a smaller pad, e.g., 7" depending on workpiece and/or operational parameters meets the limitations, since pads having 6 to 8 inch diameters are common in the art.

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Regarding claims 4-8 and 20-23, even though Gurstein et al. is considered to meet the limitations, however in the alternative, it is also noted it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the specific motor having desired specification, e.g., rpm, hp for an intended use, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

6. Claims 12, 14, 27 and 29 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Gurstein et al. either alone or in view of McCutchen as applied to claims 1, 9, 17 and 25 above, and further in view of anyone of Barous, Palushi or Stewart.

Gurstein et al. in view of McCutchen meets all of the limitations of the above claims (as best understood), except for a port attached to a vacuum device. Vacuum ports to withdraw dust and debris are known in the art as evident by Barous, Palushi or Stewart. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to further modify the invention of Gurstein et al. in view of McCutchen with a port and vacuum device as taught by anyone of Barous, Palushi or Stewart to collect the sawdust.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

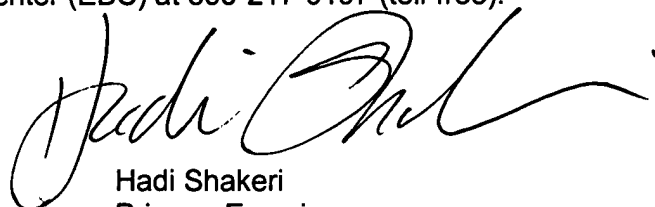
Response to Arguments

8. Applicant's arguments filed 10/22/04 have been fully considered but they are not persuasive. The argument that Gurstein does not disclose all of the limitations of claims 1 and 17, i.e., a fan that is located in the same housing as the abrasive disc is not persuasive since Gurstein discloses in col. 5 last two lines continued by first two lines in col. 6, that the fan may also be located on the shaft (20) between the motor (8) and the drive pulley (54) which would clearly place it in the same housing as the abrasive disc, i.e., the shroud (4).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hadi Shakeri whose telephone number is (571) 272-4495. The examiner can normally be reached on Monday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hadi Shakeri
Primary Examiner
Art Unit 3723
December 28, 2004